

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

WP(C).No. 35528 of 2007(D)

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AGAINST THE ORDER IN EP 1785 2005 IN  
OS.1726/2003 of PRL.MUNSIFF COURT,THRISSUR  
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PETITIONERS:

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1. SHEJIMON, S/O.BHASKARAN,  
PONGANAM MOOLA HOUSE, THEKKUMPADAM,  
PATTIKKAD.
2. BHASKARAN, S/O.MAKKU,  
PONGANAM MOOLA HOUSE, THEKKUMPADAM,  
PATTIKKAD.

BY ADV. SRI.K.A.SREEJITH

RESPONDENT:

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SAYUJYA KURIES PVT.LTD.,  
REPRESENTED BY ITS CHAIRMAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 30/11/2007, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**M.N.Krishnan, J.**

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**W.P(C).No.35528 of 2007**

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**Dated this the 30<sup>th</sup> day of November, 2007.**

**JUDGMENT**

This Writ Petition is preferred against the order of the Munsiff, Thrissur in E.P.No.1685 of 2005 in O.S.No.1726 of 2003. The court ordered arrest of the judgment debtors and was satisfied with the petitioners' evidence that the judgment debtors have source and income to discharge the decree debt. Now the learned counsel for the writ petitioners submits that it is not a considered order and it requires interference.

2. The decree holder has filed a chief affidavit whereby it was submitted that the house where the judgment debtors reside is worth Rs.10 lakhs and they are having an Ambassador Car bearing registration No.KLH 2679, a JCB bearing registration No.KL-8/R 412, a Tipper Lorry bearing registration No.KL-8/K 1390 and further 1 acre and 48 1/4 cents of land in Sy.No.1138/2, 31 and 1/4 cents of land in Sy.No.1867 and 6 cents of land in Sy.No.1140. He had been cross examined. In the cross examination, he had further deposed that there are 500 coconut trees standing in the property. He had also denied the other suggestions given by the learned counsel for the respondent. Against that evidence, the respondent has not mounted the box or has tendered any evidence to disprove the

same. When the plaintiffs evidence convincingly and cogently give the details regarding the properties, vehicles, etc. it was the imperative duty cast upon the other side to disprove the same and give some evidence against that. It is a settled principle that the civil cases are decided on the basis of the preponderance of probabilities. The court has relied upon the evidence of PW1 for issuing order of arrest.

3. I do not find that any perversity, illegality or irregularity is committed by the court in passing the order. The Writ Petition lacks merits and it is dismissed. But as a grace, I grant six weeks time to the judgment debtors to wipe off the liability and direct the court below not to execute the warrant of arrest for the said period of six weeks.

M.N.Krishnan,  
Judge.

ess 30/11